

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3594 of 1999

to

FIRST APPEAL No 3605 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

CHANDUBHAI SHANKARBHAI PARMAR

Appearance:

MR SJ DAVE, AGP for Appellant No.1
MISS SEJAL MANDAVIA, for Appellant No.2
MR KM SHETH, for Respondents

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 19/04/2000

COMMON ORAL JUDGEMENT (Per: Kadri, J.)

1. Admitted. Mr. K.M.Sheth, learned counsel, waives service of notice on behalf of respondents claimants in each appeal. At the request of learned counsel appearing for the parties, all these appeals are taken up for final hearing today.

2. Appellants have filed these appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908, against common judgment and award dated 30th June, 1998 rendered by the learned Second Extra Assistant Judge, Vadodara in Land Reference Cases Nos. 221/91 to 232/91. As common questions of facts and law arise for our consideration, we propose to dispose of all these appeals by this common judgment.

3. Agricultural lands of village Valva, Ta: Waghdia, District : Vadodara belonging to the respondents came to be acquired for the purpose of construction of canal under Narmada Canal Project by issuance of notification under sec.4(1) of the Act published on 29th May, 1985. Land Acq.Officer, after following procedure prescribed under the Act, served notices to the respondents under sec.9(3)(4) of the Act. Respondents, in response to the notices issued, appeared before the Land Acq. Officer and claimed compensation of the acquired lands at the rate of Rs.20/ per sq.mt. Land Acq.Officer, on the basis of the material produced before him, made his award on 21st October, 1987 and offered compensation of the acquired lands at the rate of Rs.0.81 ps. per sq.mt. The claimants were of the opinion that the compensation offered by the Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the Court for determination of adequate compensation. Accordingly, references were made to the District Court, Vadodara, which were numbered as Land Reference Cases Nos. 221 of 1991 to 232 of 1991. All the land reference cases came to be consolidated and the parties led common evidence in Land Reference Case No. 232 of 1991.

4. Before the Reference Court also, the claimants claimed compensation at the rate of Rs.20 per sq.mt. by, inter alia, contending that acquired lands were having high fertility and they were raising crops in the said lands. Before the Reference Court, Parmar Shamalbhai Bhpuatbhai, who was claimant of Land Ref. Case No.231/91, was examined at exh.12. The witness, during his deposition, produced previous award exh.39 in Land

Ref. Case No. 46/89 in respect of lands of village Gadit and previous award exh.40 in Land Ref. Case No. 138/89 in respect of lands of village Amarapura. On behalf of the appellants, one Balvantsinh Natvarsinh, Talati-cum -Mantri, was examined at exh.36. Reference Court, for the determination of market value of the present acquired lands situated at village Valva, relied on previous award exh.39 rendered in Land Ref. Case No. 46/89 wherein market value of the acquired lands of village Gadit was determined at the rate of Rs.8.00 per sq.mt. as on 9th November,1985. Reference Court also relied on previous award exh.40 rendered in Land Ref. Case Nos. 138/89 wherein market value of the acquired lands of village Amarapura was determined at the rate of Rs.8.00 per sq.mt. as on 7th April,1986. Reference Court observed that previous award Exh.39 was challenged in the High Court in First Appeal Nos.441/95 & group and the Court (Coram : B.N.Kirpal, C.J. & A.N.Divecha,J), by the judgment dated 6th February,1995, had reduced determination of market value of the acquired lands of village Gadit to Rs.7.00 per sq.mt. It was further observed by the Reference Court that previous award exh.40 of the acquired lands of village Amarapura was challenged in the High Court in First Appeal Nos. 2033/94 to 2040/94 and the Court (Coram : B.N.Kirpal, C.J. & R.K. Abichandani, J), by the judgment and order dated 19th September, 1994, had reduced the market value of the acquired lands of village Amarapura to Rs.7.00 per sq.mt. On the basis of the judgments of the High Court, Reference Court determined market value of the present acquired lands of village Valva at the rate of Rs.7.00 per sq.mt., which has been challenged by the appellants by filing these appeals.

5. Mr. K.M.Sheth, learned counsel for the respondents-claimants has produced relevant copies of oral evidence as well as copies of previous judgments & awards of the High Court at the time hearing of these appeals. We have gone through the oral as well as documentary evidence which is made available to the Court by the learned counsel for the respondents-claimants.

6. Learned counsel for the appellants has vehemently submitted that lands of previous awards exh.39 & 40 were not at all relevant and comparable for the determination of the market value of the present acquired lands of village Valva. It is submitted by the learned counsel for the Government that determination of the market value of the present acquired lands was highly excessive and, therefore, these appeals deserve to be admitted and allowed. We have also heard learned counsel for the

respondents-claimants.

7. From the documents supplied by the learned counsel for the respondents-claimants, it becomes evident that judgment of this Court rendered in First Appeal Nos. 441/95 & group in respect of the acquired lands of village Gadit and in First Appeal Nos. 2033/94 to 2040/94 with respect to the acquired lands of village Amarapura, were challenged in the Supreme Court wherein the Supreme Court had confirmed determination of the market value of both the acquired lands of villages Gadit & Amarapura at the rate of Rs.7.00 per sq.mt.

8. Learned counsel for the respondents also drawn our attention to the judgment of this Court in First Appeal Nos. 1933/99 to 1941/99 in respect of the acquired lands of same village Valva wherein the market value of the acquired lands of village Valva as on 15th December,1984 was determined at the rate of Rs.6.00 per sq.mt. In our opinion, when the market value of the acquired lands of the same village was determined at the rate of Rs. 6.00 per sq.mt. as on 15th December,1984, judgment of this Court is comparable and relevant for determination of the market value of the present acquired lands which is under challenge in these appeals. It has not been brought to our notice that the judgment rendered in First Appeal Nos. 1933/99 to 1941/99 on 25th October, 1999 is challenged before the higher forum. Therefore, in our opinion, judgment rendered in First Appeal Nos. 1933/99 to 1941/99 with respect to the acquired lands of village Valva had become final. Notification for the acquisition of the present acquired lands was issued on 29th May,1985, whereas notification which was the subject matter of First Appeal Nos. 1933/99 & group was issued on 15th December, 1984 i.e. prior to 6 months of the present notification. When the market value of the same village as on 15th December, 1984 was determined at the rate of Rs. 6.00 per sq.mt., we determine market value of the present acquired lands as on 29th May,1985 at the same rate of Rs.6.00 per sq.mt. The lands which are the subject matter of the present appeals are in all respect comparable with the lands of previous awards of same village Valva which was the subject matter of First Appeal Nos. 1933/99 & allied appeals. The market value of the acquired lands of adjoining villages Gadit and Amarapura were also having same fertility and agriculturists were raising same crops. Therefore, we find no hesitation in fixing market value of the present acquired lands at the rate of Rs. 6.00 per sq.mt.

9. As a result of foregoing discussion, these appeals are partly allowed. Common impugned judgment and award of the Reference Court rendered in Land Reference Case Nos. 221/91 to 232/91 is modified to the extent

that instead of Rs. 7.00 per sq.mt., claimants would be entitled to receive compensation at the rate of Rs.6.00 per sq.mt. with all statutory benefits under the Act. It is made clear that claimants shall not be entitled to interest on the amount of solatium and on additional amount under sec. 23(1-A) of the Act as per the settled legal position as enunciated by the Supreme Court in the case of State of Maharashtra v/s Maharaau Srawam Hatkar, reported in JT 1995(2) SC 583. No order as to costs.

19.4.2000 [M.H.KADRI, J]

[C.K. BUCH, J]

*rawal